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11 Attorneys for Plaintiff

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN FRANCISCO DIVISION

15 UNITED STATES OF AMERICA,) No. CR 05-00787 JSW
16 Plaintiff,) [PROPOSED] ORDER AND
17 v.) STIPULATION EXCLUDING TIME
18) UNDER THE SPEEDY TRIAL ACT
19 GASPAR GONGORA-GONGORA,)
20 aka Gaspar Gongora,)
21 aka Gaspar Pacheco,)
22 Defendant.)

23 The parties stipulate and agree, and the Court finds and holds, as follows:

24 1. The parties initially appeared on the instant matter November 2, 2005 for defendant's
25 initial appearance on the complaint. On November 17, 2005, the parties appeared in front of the
26 Honorable Nandor J. Vadas for arraignment, time was waived, and the matter was continued
27 until November 29, 2005 for arraignment. On November 29, 2005, time was again waived and
28 the matter was continued until December 7, 2005 for arraignment.

29 2. On December 7, 2005, the parties appeared in front of the Honorable Elizabeth D.
30 Laporte, and the matter was continued until December 9, 2005 for arraignment.

31 3. On December 7, 2005, Assistant Public Defender David W. Fermino, who represents
32 the defendant, requested an exclusion of time from December 7, 2005 to December 9, 2005,

1 based on effective preparation of counsel. The defendant agreed to an extension of time for the
 2 preliminary hearing under Federal Rule of Criminal Procedure 5.1(d) and an exclusion of time
 3 under the Speedy Trial Act. The parties are involved in discussions which appear likely to lead
 4 to pre-indictment resolution of this case. Therefore, the parties are requesting an extension of
 5 time under Rule 5.1(d) and an exclusion of time under the Speedy Trial Act. The parties agree
 6 that the time from December 7, 2005 to December 9, 2005 should be extended under Rule 5.1(d)
 7 and excluded in computing the time within which an information or indictment must be filed.

8 See 18 U.S.C. § 3161(h)(8)(A) and (B)(iv).

9 4. In light of the foregoing facts, the failure to grant the requested exclusion would
 10 unreasonably deny counsel for the defense the reasonable time necessary for effective
 11 preparation, taking into account the exercise of due diligence. See id. The ends of justice would
 12 be served by the Court excluding the proposed time period. These ends outweigh the best
 13 interest of the public and the defendant in a speedy trial. See id. § 3161(h)(8)(A).

14 5. For the reasons stated, the time period from December 7, 2005 to December 9, 2005 is
 15 extended under Rule 5.1(d) and excluded from the calculation of time under the Speedy Trial
 16 Act, 18 U.S.C. § 3161(h)(8)(A).

17
 18 IT IS SO STIPULATED.

19 DATED: _____

Respectfully Submitted,

21 /S/

22 NAHLA RAJAN
 23 Special Assistant United States Attorney

24 DATED: _____

25 /S/

26 DAVID W. FERMINO
 27 Counsel for Gaspar Gongora-Gongora

28 PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: January 9, 2006

STIPULATION AND ~~PROPOSED~~ ORDER
 CR 05-00787 JSW

